

REMARKS

This application has been reviewed in light of the Office Action dated April 2, 2009. Claims 1-16 are presented for examination, of which Claims 1, 5, 9, and 12 are in independent form. Claims 1, 4, 5, 7, 9, 12, 14, and 15 have been amended to define more clearly what Applicants regard as their invention. Favorable reconsideration is requested.

Initially, for the reasons discussed below, Applicants respectfully request that the Office vacate the April 2, 2009 Final Office Action and issue a new Office Action that properly addresses the arguments presented by Applicants in the January 8, 2009 Request for Reconsideration with respect to the § 103 rejection. Additionally, Applicants respectfully request the courtesy of a telephonic interview with the Examiner, prior to the issuance of the next Office Action, should the Office continue to maintain the outstanding 35 U.S.C. 112, second paragraph, rejection.

The Office Action again rejected Claims 1-16 under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action states that the recitations “a first enterprise data collection,” “a first enterprise,” “a second enterprise data collection,” “a second enterprise,” “a transponder-reader,” “a fob,” and an “fob object database system” are not “adequately described from the descriptive portion of the specification” and are not “clear.” *See* Office Action, pages 2 and 3.

In the interest of furthering prosecution, Applicants have amended the claims to remove the term “fob.” Accordingly, the rejections in view of the term “fob” are believed moot. The remaining recitations cited above are discussed below.

In response to Applicants' arguments in the January 8, 2009 Request for Reconsideration, the Office Action states that "Applicant has not clarified the claim language, e.g. Applicant has not provided what particularly is a fob and where such may be found from the descriptive portion of the specification and/or the drawing figures." Applicants respectfully submit that the claim language is clear for the following reasons.

Foremost, Applicants again note that the standard for interpreting claims with regard to 35 U.S.C. 112, second paragraph, is from the perspective of one of ordinary skill in the art. MPEP § 2106 (II) (C). Particularly, MPEP § 2106 (II) (C) recites, in part:

Office personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are not to be evaluated in a vacuum. If elements of an invention are well known in the art, the applicant does not have to provide a disclosure that describes those elements. In such a case the elements will be construed as encompassing any and every art-recognized hardware or combination of hardware and software technique for implementing the defined requisite functionalities.

In addition, "[b]readth of a claim is not to be equated with indefiniteness." MPEP § 2173.04.

Accordingly, an explicit definition of a particular claim term need not exist in the claim or the specification when the term would be readily apparent to one of ordinary skill in the art. Furthermore, a term is not indefinite simply because it is broad. Read with this standard in mind, Applicants submit that the above recitations of Claim 1 satisfy the requirements set forth under 35 U.S.C. 112, second paragraph. Each term asserted by the Office to be indefinite is addressed below.

"enterprise"

Claim 1, by way of example, recites "a first enterprise" and "a second enterprise". The term "enterprise" is widely known in the business processing arts and its meaning is readily

apparent to one of ordinary skill in the business processing arts. Applicants are at a complete loss as to why this term was deemed “not clear.” Office Action, page 2. The USPTO classified the present application in Class 705, which is defined, in part, by the USPTO as a “generic class for apparatus and corresponding methods for performing data processing operations, in which there is a significant change in the data or for performing calculation operations wherein the apparatus or method is uniquely designed for or utilized in the practice, administration, or management of an enterprise, or in the processing of financial data.” See Class 705, Section 1 – Class Definitions (<http://www.uspto.gov/go/classification/uspc705/defs705.htm>) (Original emphasis removed and underlining emphasis added).

Applicants respectfully submit that it is unreasonable for the Office to utilize the term “enterprise” in its own classification system and then also assert that the term is indefinite when utilized by Applicants, especially when Applicants have not attempted to modify the term as it is used traditionally in the business processing arts. For instance, in an exemplary embodiment, an enterprise may be an airline partner, a hotel partner, a travel agency, etc. Specification, paragraph 106.

“enterprise data collection unit”

Claim 1, by way of example, recites “a first enterprise data collection unit” and “a second enterprise data collection unit”. One of ordinary skill in the art would readily recognize that an “enterprise data collection unit,” by its very own terms, is a unit that collects data related to an enterprise. Furthermore, by way of example with respect to “a first enterprise data collection unit,” Claim 1 recites that the first enterprise data collection unit is “configured to store update transactions and pending transactions associated with said transponder and said first enterprise”. For further illustration, by way of example, see FIG. 10, FIG. 14, and paragraphs

105, 106, and 133 of the specification. Thus, Applicants respectfully submit that the outer limits of an “enterprise collection unit” are clearly defined by the meaning of the terms themselves and by the other features explicitly recited in each claim.

“transponder-reader”

Claim 1 recites a “transponder-reader” which is explicitly recited by the claim as “interface[ing] with said transponder and said first and second enterprise data collection units.” Applicants respectfully submit that it would be readily apparent to one of ordinary skill in the art that the “transponder-reader” reads data from the transponder and the first and second enterprise data collection units recited in the claim. While term “reader” may be broad the outer limits of the term are clearly defined by the meaning of the term itself and by the other features explicitly recited in the claim. For further illustration, by way of example, see paragraphs 37-39, 105, and 106 of the specification.

Accordingly, it is believed that the rejection under Section 112, second paragraph, has been obviated, and its withdrawal is therefore respectfully requested.

Should the next Office Action maintain this rejection, then Applicants respectfully request the courtesy of a telephonic conversation with the Examiner and further clarification of the rationale relied upon by the Office for rejecting these claims under 35 U.S.C. 112, second paragraph.

The Office Action rejected Claims 1-16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,317,721 (“*Hurta*”). Applicants respectfully traverse these rejections and submit that independent Claims 1, 5, 9, and 12, together with the claims dependent therefrom, are patentably distinct from the cited art for at least the following reasons.

On pages 3 and 4 of the January 8, 2009 Request for Reconsideration, Applicants pointed out several deficiencies believed to exist in the obviousness rationale relied upon by the Office in the September 8, 2008 Office Action. However, in the outstanding Office Action, rather than address any of these deficiencies, the Office instead simply reiterated the previous obviousness rationale set forth in the September 8, 2008 Office Action.

Accordingly, Applicants request that the Office vacate the Final Office Action of April 2, 2009 and issue a new Office Action that properly addresses the arguments presented by Applicants in the January 8, 2009 Request for Reconsideration with respect to the § 103 rejection. For the Office's convenience, these arguments are presented again below.

Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness against Claim 1. The Office Action admits that *Hurta* “does not specifically disclose a second application comprising a common file structure, a fob and a first and a second enterprise data collection.” *See* Office Action, page 3. The Office Action then looks to Official Notice for these teachings. *Id.* Even if the Office Action's Official Notice statements are proper, the Office Action still fails to establish obviousness against Claim 1 for the following reasons.

As conceded by the Office Action, *Hurta* fails to teach a fob and the first and second enterprise data collection units. It follows that *Hurta* also fails to teach a system, such as the “update logic system”, which routes information using those admittedly lacking features. Accordingly, Applicants respectfully submit that the Office Action failed to treat the “update logic system” features of Claim 1 on the merits.

Indeed, the sole obviousness rationale provided by the Office Action recites:

Official Notice is taken that, as understood, a common file structure, a fob and a first and second enterprise data collection

used in the database art has been common knowledge in the art.
To have provided such for Hurta would have been obvious to one
of ordinary skill in the art.

(Emphasis added.)

Even if those features could be incorporated into *Hurta's* system, there still has not been provided any rationale which explains how the system of *Hurta* could be modified to arrive at the claimed "update logic system" of Claim 1, which routes information using those admittedly lacking features of *Hurta* ". . . to effect synchronization of said transponder information associated with said fob and said fob object database system."

Accordingly, the rejection under 35 U.S.C § 103(a) is deemed obviated, and its withdrawal is respectfully requested.

Independent Claims 5, 9, and 12 include features similar to those discussed above in connection with Claim 1. Therefore, those claims also are believed to be patentable for at least the same reasons as discussed above.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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